

Application Serial No.: 10/027,902
Substitute Amendment and Response Dated August 18, 2004

PATENT
3596.02-3

REMARKS

Applicant's Statement

Applicant earlier cancelled claims 1-29 and replaced them with new claims 30-61. These claims are now amended to always include certain ethoxylated components. See for example in the specification

- for summary of the invention including certain ethylene oxide products;
at page 7, line 25 through page 9, line 16;
- for reference to aspects of the invention including certain ethylene oxide products;
at page 11, line 20 through page 13, line 30;
- at page 15, line 16 through page 18, line 25;
- for description of ethoxylated alcohols;
at page 21, lines 10-16.

The focus of these new claims is to always include certain ethylene oxide components in the combustible fuel composition.

No new matter has been added to this application.

Applicants now note the correct serial number

RESTRICTION / ELECTION

The Examiner states that:

“Applicants election of Claims 1-28 in the paper filed June 29, 2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).”

Applicant reserves the right to file continuing or divisional application having claims equivalent to the originally filed disclosure. Amendments are not a waiver or estoppel of broader rights.

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REJECTION OF CLAIMS UNDER 35 USC 112, SECOND PARAGRAPH

The Examiner states:

“Claims 30-59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claims the subject matter which applicant regards as the invention.

The independent claims, claims 30, 40 and 46 are directed to fuel compositions containing combustible liquid fuel...

Claims 40 and 46 contain improper Markush language...

Claims 30-32, 34-59 are rendered indefinite by the recitation ‘that certain ethylene oxide condensation and ethylene oxide esterification products are completely eliminated...

In claim 33 it is unclear how the alcohol can be defined as ethanol and also contain ‘between 0.5%-25% by volume of ethanol’.

Claim 39 improperly depends from canceled claim 3.

In claim 57, the term ‘such as vegetable oil’ is indefinite.”

Applicant has amended the claims therefore all these rejections have been overcome. Reconsideration and withdrawal are requested.

DOUBLE PATENTING

Applicant argues that the provisional double patenting rejection for US 6,348,074 is now overcome with these amended claims. US 6,348,074 excludes ethoxylated compounds. The present application includes certain ethoxylated components. These two should be mutually exclusive and patentably distinct.

Reconsideration and withdrawal are requested.

DOUBLE PATENTING

Applicant argues that the double patenting rejection is overcome regarding US Ser. No. 10/027,902 for these amended claims. USSN 10/027,902 excludes ethoxylated compounds. The present application includes certain ethoxylated components. These two should be mutually exclusive and patentably distinct.

Reconsideration and withdrawal are requested.